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Report of the International Law Commission on the work of its fifty-ninth session

Draft resolution

Report of the International Law Commission on the work of its fifty-ninth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifty-ninth session,[1]

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 10* (A/62/10).
[2] Resolution 2625 (XXV), annex.

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Acknowledging the importance of facilitating the timely publication of the *Yearbook* of the International Law Commission and eliminating the backlog,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the General Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its fifty-ninth session,[1] and recommends that the Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the General Assembly;

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its fifty-ninth session;

3. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects involved in the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report,[3] regarding:

(a) Reservations to treaties;

(b) Shared natural resources;

(c) Expulsion of aliens;

(d) Responsibility of international organizations;

(e) The obligation to extradite or prosecute (*aut dedere aut judicare*);

4. *Invites* Governments, within the context of paragraph 3 above, to provide information to the International Law Commission regarding practice with regard to the topics "Expulsion of aliens" and "The obligation to extradite or prosecute (*aut dedere aut judicare*)";

5. *Reiterates its invitation* to Governments, within the context of Chapter III of the 2005 report of the International Law Commission, to provide information to the Commission regarding State practice, in particular more contemporary practice on the topic "Effects of armed conflicts on treaties";[4]

6. *Draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by

[3] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 10* (A/62/10), paras. 23-32.

[4] Ibid., *Sixtieth Session, Supplement No. 10* (A/60/10), para. 25.

1 January 2008 on the draft articles and commentaries on the law of transboundary aquifers adopted on first reading by the Commission at its fifty-eighth session;[5]

7. *Takes note* of the decision of the International Law Commission to include the topics "Protection of persons in the event of disasters" and "Immunity of State officials from foreign criminal jurisdiction" in its programme of work;[6]

8. *Invites* the International Law Commission to continue taking measures to enhance its efficiency and productivity and to consider making proposals to that end;

9. *Encourages* the International Law Commission to continue taking cost-saving measures at its future sessions without prejudice to the efficiency of its work;

10. *Takes note* of paragraph 399 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 5 May to 6 June and from 7 July to 8 August 2008;

11. *Welcomes* the enhanced dialogue between the International Law Commission and the Sixth Committee at the sixty-second session of the General Assembly, stresses the desirability of further enhancing the dialogue between the two bodies, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixty-third session of the Assembly;

12. *Encourages* delegations, during the debate on the report of the International Law Commission, to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

13. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

14. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

15. *Takes note* of paragraphs 400 to 405 of the report of the International Law Commission with regard to cooperation with other bodies, and encourages the Commission to continue the implementation of article 16, paragraph (e), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

16. *Notes* that the International Law Commission, in accordance with article 25, paragraph 1, of its statute, held a meeting during its fifty-ninth session with

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[5] Ibid., *Sixty-first Session, Supplement No. 10* (A/61/10), paras. 75 and 76.

[6] Ibid., *Sixty-second Session, Supplement No. 10* (A/62/10), paras. 375 and 376.

United Nations and other experts in the field of human rights, including representatives from human rights treaty bodies, and exchanged views on issues relating to reservations to human rights treaties;

17. *Also notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

18. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission;

19. *Approves* the conclusions reached by the International Law Commission in paragraphs 387 to 395 of its report;

20. *Also approves* the conclusions reached by the International Law Commission in paragraphs 382 and 383 of its report, and reaffirms its previous decisions concerning the documentation and summary records of the Commission;[7]

21. *Takes note* of paragraph 385 of the report of the International Law Commission and, without prejudice to the importance of ensuring necessary allocations in the regular budget, requests the Secretary-General to establish a trust fund to accept voluntary contributions so as to address the backlog relating to the *Yearbook* of the International Law Commission;

22. *Also takes note* of the Guidelines on the publication of documents of the International Law Commission, as endorsed by the Commission in paragraph 381 of its report;

23. *Further takes note* of paragraphs 396 and 397 of the report of the International Law Commission and encourages legal advisers to participate in the commemorative meeting envisaged for the sixtieth anniversary to be held in Geneva on 19 and 20 May 2008 and invites Member States, in association with existing regional organizations, professional associations, academic institutions and members of the Commission, to convene national or regional meetings, which would be dedicated to the work of the Commission;

24. *Notes with appreciation* the expansion of the website of the International Law Commission[8] to include all its documentation, and welcomes the continuous efforts of the Codification Division to maintain and improve the website;

25. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend the Seminar, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

26. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;

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[7] See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly.

[8] www.un.org/law/ilc.

27. *Also requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the sixty-second session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

28. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

29. *Recommends* that the debate on the report of the International Law Commission at the sixty-third session of the General Assembly commence on 27 October 2008.